



**CHOATE LAW FIRM LLC**  
TRIAL LAWYERS

ALASKA • CALIFORNIA • HAWAII

424 North Franklin Street  
Juneau, Alaska 99801  
Telephone (907) 586-4490  
Facsimile (907) 586-6633  
lawyers@choatelawfirm.com

May 5, 2006

James Dickens  
Miller Nash LLP  
4400 Two Union Square  
601 Union Street  
Seattle, WA 98101-2352

Peter Gruenstein  
Gruenstein & Hickey  
Resolution Plaza  
1029 W. 3rd Avenue, Suite 510  
Anchorage, AK 99501

Re: Confirmation of Management and 30(b)(6) Depositions  
Case: *Johnson, Myrna v Fred Meyers [23003]*  
Client: Myrna Johnson  
CLF: 23003  
D/O: March 18, 2002

Dear Jim:

I'll send out new notices for Thursday and Friday, May 25 and 26, for the management and 30(b)(6) depositions. I need to include any discovery you anticipate or need in order to complete the Stipulation for Extension of Discovery. Could you get that to me by Monday? Thanks.

Sincerely,

Mark Choate  
CHOATE LAW FIRM, LLC

cc: Client

Exhibit P  
page 1 of 1

CHOATE LAW FIRM LLC  
424 North Franklin Street  
Juneau, Alaska 99801  
(907) 586-4490

Mark Clayton Choate, Esq., AK #8011070  
Jessica L. Srader, Esq., AK #0412105  
CHOATE LAW FIRM LLC  
424 N. Franklin Street  
Telephone: (907) 586-4490  
Facsimile: (907) 586-6633

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA AT JUNEAU

MYRNA I. JOHNSON,

Plaintiff,

vs.

FRED MEYER STORES, INC., and  
JAIME SAN MIGUEL,

Defendants

Case No. J-04-008 CV (JWS)

**SECOND AMENDED NOTICE OF TAKING VIDEOTAPED DEPOSITIONS**

TO: DEFENDANTS AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that pursuant to Federal Rules of Civil Procedure 30 and 30.1, plaintiff will take the depositions of the following named individuals on May 25 and May 26, 2006 (times to be selected by defense counsel) at the office of Miller Nash LLP, located at 3400 U.S. Bancorp Tower, 111 S.W. Fifth Ave., Portland, OR 97204:

Deponent

Mary Lucas

Dennis Afflect

Jim Hill

1 of 4

*Johnson, Myrna v Fred Meyers [23003].*

SECOND AMENDED NOTICE OF TAKING VIDEOTAPED DEPOSITIONS  
J-04-008 CV (JWS)

Attachment Q  
page 1 of 4

30(b)(6) Deponent(s)

These depositions will be taken before Bevoich, Walter & Friend (Court Reporters) or other person(s) lawfully authorized to administer oaths and take deposition testimony for the purposes of discovery and may be videotaped for use as evidence in this action, at trial, or for such other purposes as are permitted. If for any reason said deposition is not completed, the same shall continue from day to day, exclude Sundays and holidays, until completed.

You are invited to attend and cross-examine if you so desire.

Respectfully submitted,  
CHOATE LAW FIRM LLC

**MARK CHOATE**  
424 N. Franklin Street  
Juneau, AK 99801  
Phone: (907) 586-4490  
Fax: (907) 586-6633  
EM: [lawyers@choatelawfirm.com](mailto:lawyers@choatelawfirm.com)  
AK Bar: 8011070

Attorneys for Plaintiff

2 of 4

Johnson, Myrna v Fred Meyers [23003].  
SECOND AMENDED NOTICE OF TAKING VIDEOTAPED DEPOSITIONS  
J-04-008 CV (JWS)

Attachment Q  
page 2 of 4

**PROOF OF SERVICE**

STATE OF ALASKA, FIRST JUDICIAL DISTRICT AT JUNEAU

I am employed in the City and Borough of Juneau, State of Alaska.. I am over the age of 18 and not a party to the within action. My business address is 424 N. Franklin Street, Juneau, AK 99801.

On May 5, 2006, I served the foregoing document described as Second Amended Notice of Taking Videotaped Depositions, on the interested parties in this action by serving the original true copies, addressed as follows:

James Dickens  
Miller Nash LLP  
Attorney For: Fred Meyers  
4400 Two Union Square  
601 Union Street  
Seattle, WA 98101-2352  
Phone: (206) 622-8484  
Fax: (206) 622-7485

Peter Gruenstein  
Gruenstein & Hickey  
Attorney For: Fred Meyers  
500 L Street, Suite 401  
Anchorage, AK 99501  
Phone: (907) 258-4338  
Fax: (907) 258-4350

☐ By mail, I deposited such envelope(s) in the mail at Juneau, Alaska, with postage thereon fully prepaid.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Juneau, Alaska, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

☐ By personal service, I delivered such envelope(s) by hand to the ☐ office(s); ☐ the court box of the addressee(s)..

☒ By facsimile, I transmitted such documents from Juneau, Alaska, to the offices of the addressee(s).

☐ By email, I transmitted such documents from Juneau, Alaska, to the email address of the addressee(s).

☐ By electronic service through the court of record's electronic service system..

1 ☐ (State) I declare under penalty of perjury under the laws of the State of Alaska  
2 that the foregoing is true and correct.

3 ☒ (Federal) I declare that I am employed in the office of a member of the Bar of  
4 this Court, at whose direction the service was made.

5 Executed on May 5, 2006 at Juneau, Alaska..

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7 CHOATE LAW FIRM, LLC  
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CHOATE LAW FIRM LLC  
424 North Franklin Street  
Juneau, Alaska 99801  
(907) 586-4490

**MILLER NASH** LLP  
ATTORNEYS AT LAW

MAY 21 2006

Miller Nash LLP  
www.millernash.com  
4400 Two Union Square  
601 Union Street  
Seattle, WA 98101-2352  
(206) 622-8484  
(206) 622-7485 fax

3400 U.S. Bancorp Tower  
111 S.W. Fifth Avenue  
Portland, OR 97204-3699  
(503) 224-5858  
(503) 224-0155 fax

500 E. Broadway, Suite 400  
Post Office Box 694  
Vancouver, WA 98666-0694  
(360) 699-4771  
(360) 694-6413 fax

James R. Dickens  
jim.dickens@millernash.com

May 17, 2006

VIA FACSIMILE (907) 586-6633 & U.S. MAIL

Mark Clayton Choate  
Choate Law Firm LLC  
424 North Franklin Street  
Juneau, AK 99801

Subject: *Johnson v. Fred Meyer*

Dear Mark:

I believe we are set for the depositions you want to take in Portland next week. Mr. Haverkost and Mr. Affleck will be available on Thursday, May 25, 2006, at 10:00 a.m. and 2:00 p.m., respectively. Ms. Lucas will be available at 9:00 a.m. on Friday, May 26, 2006, and Mr. Hill at 11:00 a.m. on Friday, May 26, 2006. I believe we will be set also for the Rule 30(b)(6) deposition at 2:00 p.m. on Friday, May 26. Is this consistent with your understanding and schedule? If not, let me know as soon as you can.

Very truly yours,



James R. Dickens

cc: Fred Meyer

DICKENS:gsf  
File No.: 502470-0074  
Doc ID: SEADOCS:197137.20

Exhibit R  
page 1 of 1



**CHOATE LAW FIRM LLC**  
TRIAL LAWYERS  
ALASKA • CALIFORNIA • HAWAII

424 North Franklin Street  
Juneau, Alaska 99801  
Telephone (907) 586-4490  
Facsimile (907) 586-6633  
lawyers@choatelawfirm.com

May 18, 2006

James Dickens  
Miller Nash LLP  
4400 Two Union Square  
601 Union Street  
Seattle, WA 98101-2352

Peter Gruenstein  
Gruenstein & Hickey  
Resolution Plaza  
1029 W. 3rd Avenue, Suite 510  
Anchorage, AK 99501

Re: Response to May 17, 2006 Letter - Depositions Confirmed  
Case: *Johnson, Myrna v Fred Meyers [23003]*  
Client: Myrna Johnson  
CLF: 23003  
D/O: March 18, 2002

Dear Jim and Peter:

This letter responds to Jim's letter of May 17, 2006 identifying deponents and dates and times next week for their depositions. The schedule is fine with me and I will forward to our court reporter.

Sincerely,

CHOATE LAW FIRM, LLC

cc: Client

Exhibit S  
page 1 of 1

CHOATE LAW FIRM LLC

424 North Franklin Street  
Juneau, Alaska 99801  
(907) 586-4490

1 Mark Clayton Choate, Esq., AK #8011070

2 Jessica L. Srader, Esq., AK #0412105

3 CHOATE LAW FIRM LLC

4 424 N. Franklin Street

5 Telephone: (907) 586-4490

6 Facsimile: (907) 586-6633

7 Attorneys for Plaintiff

8 UNITED STATES DISTRICT COURT

9 FOR THE DISTRICT OF ALASKA AT JUNEAU

10 MYRNA I. JOHNSON,

11 Plaintiff,

12 vs.

13 FRED MEYER STORES, INC., and  
14 JAIME SAN MIGUEL,

15 Defendants

Case No. J-04-008 CV (JWS)

16 PLAINTIFF'S THIRD REQUESTS FOR PRODUCTION OF DOCUMENTS  
17 TO DEFENDANTS DATED MAY 26, 2006

18 TO: Jaime San Miguel &  
19 Fred Meyer Stores, Inc.  
20 c/o James Dickens, Esq.  
21 Miller & Nash, LLP  
22 4400 Two Union Square  
23 601 Union Street  
24 Seattle, WA 98101-2352

25 Plaintiff MYRNA I. JOHNSON, hereby requests that defendants response to this  
26 Request for Production within thirty (30) days of service and produce the documents requested  
27 herein at the Choate Law Firm LLC, 424 N. Franklin Street, Juneau, Alaska 99801 as required  
28 by FRCP 34.

Plaintiff incorporates by reference the "Definitions and Instructions" contained within  
her First Requests for Production of Documents dated January 3, 2005.

1 of 6

*Johnson, Myrna v Fred Meyers [23003].*

PLAINTIFF'S THIRD REQUEST FOR PRODUCTION OF DOCUMENTS DATED MAY 26, 2006  
J-04-008 CV (JWS)

Exhibit T  
page 1 of 6



CHOATE LAW FIRM LLC  
424 North Franklin Street  
Juneau, Alaska 99801  
(907) 586-4490

1 Request for Production No 25: Please produce copies of all materials in the defendants'  
2 possession regarding the investigation of complaints that defendant Jaime San Miguel was  
3 arriving late to work and any actions taken as a result of that investigation.

4  
5 Response No. 25:  
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8 Request for Production No 26: Please produce copies of all materials (including workbooks,  
9 handouts, training materials, videos and computerized power point or similar presentations)  
10 that were utilized by Mary Lucas in teaching the following training courses to managers in  
11 Juneau:

- 12 a) Sexual Harassment  
13 b) Diversity  
14 c) Recruiting and Hiring  
15 d) Progressive Discipline

16 Response No. 26:  
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19 Request for Production No 27: Please produce copies of all attendance rosters identifying the  
20 participants at the courses identified in RFP No. 26 taught by Mary Lucas to managers in  
21 Juneau:  
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23 Response No. 27:  
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27 2 of 6

28 *Johnson, Myrna v Fred Meyers [23003].*  
PLAINTIFF'S THIRD REQUEST FOR PRODUCTION OF DOCUMENTS DATED MAY 26, 2006  
J-04-008 CV (JWS)

Exhibit T  
page 2 of 6

CHOATE LAW FIRM LLC

424 North Franklin Street  
Juneau, Alaska 99801  
(907) 586-4490

1 Request for Production No 28: Please produce copies of all materials (including workbooks,  
2 handouts, training materials, videos and computerized power point or similar presentations)  
3 that were utilized by James Hill in teaching the EIS (Excellence in Supervision) course to  
4 managers in Juneau:

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6 Response No. 28:  
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9 Request for Production No 29: Please produce copies of all attendance rosters identifying the  
10 participants at the courses identified in RFP No. 26 taught by Mary Lucas to managers in  
11 Juneau:

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13 Response No. 29:  
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16 Request for Production No 30: Please produce copies of any records in the defendants'  
17 possession showing the dates and times of attendance of Fred Sayre, Jaime San Miguel and  
18 Myrna Johnson at any of the following management courses, whether in Juneau or elsewhere:

- 19 a) Sexual Harassment  
20 b) Diversity  
21 c) Recruiting and Hiring  
22 d) Progressive Discipline  
23 e) EIS (Excellence in Supervision)

24  
25 Response No. 30:  
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27 3 of 6

28 *Johnson, Myrna v Fred Meyers [23003].*  
PLAINTIFF'S THIRD REQUEST FOR PRODUCTION OF DOCUMENTS DATED MAY 26, 2006  
J-04-008 CV (JWS)

Exhibit T  
page 3 of 6

CHOATE LAW FIRM LLC

424 North Franklin Street  
Juneau, Alaska 99801  
(907) 586-4490

1 DATED this 26<sup>th</sup> day of May, 2006 at Juneau, Alaska.

2  
3  
4 Respectfully submitted,  
CHOATE LAW FIRM LLC

5  
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7

8 MARK CHOATE  
424 N. Franklin Street  
Juneau, AK 99801  
9 Phone: (907) 586-4490  
0 Fax: (907) 586-6633  
1 EM: lawyers@choatelawfirm.com  
2 AK Bar: 8011070

3 Attorneys for Plaintiff

4  
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7 4 of 6

8 *Johnson, Myrna v Fred Meyers [23003].*

PLAINTIFF'S THIRD REQUEST FOR PRODUCTION OF DOCUMENTS DATED MAY 26, 2006  
J-04-008 CV (JWS)

Exhibit T  
page 4 of 6

PROOF OF SERVICE

## STATE OF ALASKA, FIRST JUDICIAL DISTRICT AT JUNEAU

I am employed in the City and Borough of Juneau, State of Alaska.. I am over the age of 18 and not a party to the within action. My business address is 424 N. Franklin Street, Juneau, AK 99801.

On May 26, 2006, I served the foregoing document described as PLAINTIFF'S THIRD REQUEST FOR PRODUCTION OF DOCUMENTS DATED MAY 26, 2006, on the interested parties in this action by serving the original true copies, addressed as follows:

James Dickens  
Miller Nash LLP  
Attorney For: Fred Meyers  
4400 Two Union Square  
601 Union Street  
Seattle, WA 98101-2352  
Phone: (206) 622-8484  
Fax: (206) 622-7485

Peter Gruenstein  
Gruenstein & Hickey  
Attorney For: Fred Meyers  
500 L Street, Suite 401  
Anchorage, AK 99501  
Phone: (907) 258-4338  
Fax: (907) 258-4350

☒ By mail, I deposited such envelope(s) in the mail at Juneau, Alaska, with postage thereon fully prepaid.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Juneau, Alaska, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

☐ By personal service, I delivered such envelope(s) by hand to the ☐ office(s); ☐ the court box of the addressee(s)..

☒ By facsimile, I transmitted such documents from Juneau, Alaska, to the offices of the addressee(s).

☐ By email, I transmitted such documents from Juneau, Alaska, to the email address of the addressee(s).

☐ By electronic service through the court of record's electronic service system.,

5 of 6

Johnson, Myrna v Fred Meyers [23003].  
PLAINTIFF'S THIRD REQUEST FOR PRODUCTION OF DOCUMENTS  
J-04-008 CV (JWS)

Exhibit T  
page 5 of 6

CHOATE LAW FIRM LLC

424 North Franklin Street  
Juneau, Alaska 99801  
(907) 586-4490

1 ☐ (State) I declare under penalty of perjury under the laws of the State of Alaska  
that the foregoing is true and correct.

2 ☒ (Federal) I declare that I am employed in the office of a member of the Bar of  
3 this Court, at whose direction the service was made.

4 Executed on May 26, 2006 at Juneau, Alaska..

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6 CHOATE LAW FIRM, LLC  
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CHOATE LAW FIRM LLC

424 North Franklin Street  
Juneau, Alaska 99801  
(907) 586-4490

6 of 6

*Johnson, Myrna v Fred Meyers [23003].*  
PLAINTIFF'S THIRD REQUEST FOR PRODUCTION OF DOCUMENTS  
J-04-008 CV (JWS)

Exhibit I  
page 6 of 6



**CHOATE LAW FIRM LLC**  
TRIAL LAWYERS  
ALASKA • CALIFORNIA • HAWAII

424 North Franklin Street  
Juneau, Alaska 99801  
Telephone (907) 586-4490  
Facsimile (907) 586-6633  
lawyers@choatelawfirm.com

July 6, 2006

Faxed Only to: (206) 622-7485

James Dickens  
Miller Nash LLP  
4400 Two Union Square  
601 Union Street  
Seattle, WA 98101-2352

Peter Gruenstein  
Gruenstein & Hickey  
Resolution Plaza  
1029 W. 3rd Avenue, Suite 510  
Anchorage, AK 99501

Re: Request for Status of Discovery Responses  
Case: *Johnson, Myrna v Fred Meyers [23003]*  
Client: Myrna Johnson  
CLF: 23003  
D/O: March 18, 2002

Dear Counsel:

We propounded PLAINTIFF'S THIRD REQUESTS FOR PRODUCTION OF DOCUMENT DATED MAY 26, 2006 more than a month ago. Would you please advise us immediately as to when we will receive the requested discovery?

Sincerely,

Mark Choate  
CHOATE LAW FIRM, LLC

cc: Client

Exhibit 4  
page 1 of 1

James R. Dickens  
MILLER NASH LLP  
4400 Two Union Square  
601 Union Street  
Seattle WA 98101-2352  
Telephone: (206) 622-8484

Judge Ralph R. Beistline

JUL 1 2006

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Peter Gruenstein  
GRUENSTEIN & HICKEY  
Resolution Plaza  
1029 W. 3<sup>rd</sup> Avenue, Suite 510  
Anchorage AK 99501  
Telephone: (907) 258-4338

Attorneys for Defendants

UNITED STATES DISTRICT COURT  
DISTRICT OF ALASKA

MYRNA I. JOHNSON,

Plaintiff,

v.

FRED MEYER STORES, INC., a Delaware  
corporation; and JAIME SAN MIGUEL,

Defendants.

Case No. J-04-008-CV (JWS)

MILLER NASH LLP  
ATTORNEYS AT LAW  
4400 TWO UNION SQUARE  
601 UNION STREET, SEATTLE WA 98101-2352  
TELEPHONE (206) 622-8484

**PLAINTIFF'S THIRD REQUESTS FOR PRODUCTION OF DOCUMENTS  
TO DEFENDANTS DATED MAY 26, 2006,  
AND DEFENDANTS' RESPONSES THERETO**

Request for Production No. 25: Please produce copies of all materials in the defendants' possession regarding the investigation of complaints that defendant Jaime San Miguel was arriving late to work and any actions taken as a result of that investigation.

Response No. 25: See document nos. 202414 – 202438G produced herewith.

PLAINTIFF'S THIRD REQUESTS FOR PRODUCTION OF DOCUMENTS  
TO DEFENDANTS DATED MAY 26, 2006,  
AND DEFENDANTS' RESPONSES THERETO  
Johnson v. Fred Meyer  
Case No. J-04-008-CV  
Page 1 of 4

ORIGINAL

SEADOCs:237030.1

Exhibit V  
page 1 of 4

MILLER NASH LLP  
ATTORNEYS AT LAW  
4400 TWO UNION SQUARE  
601 UNION STREET, SEATTLE WA 98101-2352  
TELEPHONE (206) 622-8484

Request for Production No. 26: Please produce copies of all materials (including workbooks, handouts, training materials, videos and computerized power point or similar presentations) that were utilized by Mary Lucas in teaching the following training courses to managers in Juneau:

- a) Sexual Harassment
- b) Diversity
- c) Recruiting and Hiring
- d) Progressive Discipline

Response No. 26: Objection. This request is overly broad and burdensome and is not limited by time. Without waiving this objections,

- a) Sexual Harassment – see document nos. 202439 – 202460 produced herewith;
- b) Diversity – see document nos. 202461 – 202477 produced herewith;
- c) Recruiting and Hiring – see document nos. 202478 – 202565 produced herewith; and
- d) Progressive Discipline – previous training materials are no longer available.

Request for Production No. 27: Please produce copies of all attendance rosters identifying the participants at the courses identified in RFP No. 26 taught by Mary Lucas to managers in Juneau.

Response No. 27: None. Attendance rosters are only kept for one year and are no longer available.

Request for Production No. 28: Please produce copies of all materials (including workbooks, handouts, training materials, videos and computerized power point or similar presentations) that were utilized by James Hill in teaching the EIS (Excellence in Supervision) course to managers in Juneau.

Response No. 28: See document nos. 202566 - 202720 produced herewith.

PLAINTIFF'S THIRD REQUESTS FOR PRODUCTION OF DOCUMENTS  
TO DEFENDANTS DATED MAY 26, 2006,  
**AND DEFENDANTS' RESPONSES THERETO**  
Johnson v. Fred Meyer  
Case No. J-04-008-CV  
Page 2 of 4

SEADOCS:237030.1



MILLER NASH LLP  
ATTORNEYS AT LAW  
4400 TWO UNION SQUARE  
601 UNION STREET, SEATTLE WA 98101-2352  
TELEPHONE (206) 622-8484

Request for Production No. 29: Please produce copies of all attendance rosters identifying the participants at the courses identified in RFP No. 26 taught by Mary Lucas to managers in Juneau.

Response No. 29: None. Attendance rosters are only kept for one year and are no longer available.

Request for Production No. 30: Please produce copies of any records in the defendants' possession showing the dates and times of attendance of Fred Sayre, Jaime San Miguel and Myrna Johnson at any of the following management courses, whether in Juneau or elsewhere:

- a) Sexual Harassment
- b) Diversity
- c) Recruiting and Hiring
- d) Progressive Discipline
- e) EIS (Excellence in Supervision)

Response No. 30: See document nos. 202721 – 202725 (Fred Sayre); 202726 – 202736 (Jaime San Miguel); and 202737 – 202741 (Myrna Johnson) produced herewith.

DATED this 26<sup>th</sup> day of May, 2006 at Juneau, Alaska.

Respectfully submitted,  
CHOATE LAW FIRM LLC

---

MARK CHOATE  
424 N. Franklin Street  
Juneau, AK 99801  
Phone: (907) 586-4490  
Fax: (907) 586-6633  
EM: lawyers@choatelawfirm.com  
AK Bar: 8011070

Attorneys for Plaintiff

PLAINTIFF'S THIRD REQUESTS FOR PRODUCTION OF DOCUMENTS  
TO DEFENDANTS DATED MAY 26, 2006,  
AND DEFENDANTS' RESPONSES THERETO  
Johnson v. Fred Meyer  
Case No. J-04-008-CV  
Page 3 of 4

SEADOCs:237030.1

Exhibit V  
page 3 of 4

RESPONSES DATED this 10<sup>th</sup> day of July, 2006.

MILLER NASH LLP

James R. Dickens  
James R. Dickens  
Admitted *pro hac vice*

Attorneys for Defendants

MILLER NASH LLP  
ATTORNEYS AT LAW  
4400 TWO UNION SQUARE  
601 UNION STREET, SEATTLE WA 98101-2352  
TELEPHONE (206) 622-8484

CERTIFICATE OF SERVICE

I hereby certify that on July 10, 2006, a  
true and correct copy of the foregoing document  
was sent via Express Mail to:

Mark Clayton Choate  
Choate Law Firm LLC  
424 North Franklin Street  
Juneau, AK 99801

James R. Dickens  
James R. Dickens

PLAINTIFF'S THIRD REQUESTS FOR PRODUCTION OF DOCUMENTS  
TO DEFENDANTS DATED MAY 26, 2006,  
AND DEFENDANTS' RESPONSES THERETO  
Johnson v. Fred Meyer  
Case No. J-04-008-CV  
Page 4 of 4

SEADOCS:237030.1

Exhibit V  
page 4 of 4



**CHOATE LAW FIRM LLC**  
TRIAL LAWYERS  
ALASKA • CALIFORNIA • HAWAII

424 North Franklin Street  
Juneau, Alaska 99801  
Telephone (907) 586-4490  
Facsimile (907) 586-6633  
lawyers@choatelawfirm.com

July 14, 2006

Faxed Only to: (206) 622-7485

James Dickens  
Miller Nash LLP  
4400 Two Union Square  
601 Union Street  
Seattle, WA 98101-2352

Re: Defendants' Responses to Plaintiff's Third Requests for Production of Documents Dated May 26, 2006  
Case: *Johnson, Myrna v Fred Meyers [23003]*  
Client: Myrna Johnson  
CLF: 23003  
D/O: March 18, 2002

Dear Jim:

On July 11, 2006 we received Defendants' Responses to Plaintiff's Third Requests for Production of Documents Dated May 26, 2006. In response to our RFP No. 25, you provided document nos. 202414 – 202438G. The documents fall within two categories: (1) "Office Vision" emails relating to complaints regarding Jaime San Miguel's management, and (2) hand-written notes which appear to both memorialize and perhaps comment upon those same complaints. Neither the author nor the creation dates of the hand-written notes are identified.

Succinctly, these documents should have been produced much earlier in this litigation. On January 5, 2005, Plaintiff's First Requests for Production of Documents was served on your office by Ms. Johnson's prior counsel. I asked in early January of 2006 that you respond to that production request and you did so on March 22, 2006. In RFP No. 5, Fred Meyer was asked to: *"Please produce all statements...referring, relating to or pertaining to any fact or issue in this matter or the conduct that is the subject of this litigation."* You stated that any statement had been or would be provided with those responses.

Similarly, in RFP No. 19, Fred Meyer was requested to: *"Produce any document referring, relating or pertaining to verbal or written complaints or expressions of concern from any employee of the Juneau Store regarding San Miguel from 2000 to present."* Your answer was "there are none."

Exhibit W  
page 1 of 2

James Dickens – Page 2  
July 14, 2006

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Finally, in 30(b)(6) depositions, when I was attempting to obtain copies of prior Office Vision emails from this time period, I was specifically told under oath that there were no other Office Vision emails related to this matter or available as they had been destroyed in the migration to a Lotus Notes system.

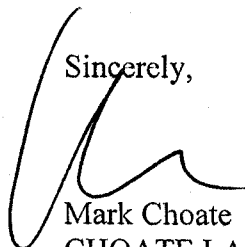
For these reasons, document nos. 202414 – 202438G, received on July 11, 2006 are a surprise. They deal with complaints about Jaime San Miguel's management style, absenteeism, discipline, treatment of female subordinates, store "tours", recovery and other issues directly related to the disciplinary event which we allege was a constructive discharge of our client.

In the same vein, the extensive hand-written notes by an unknown author describing complaints about San Miguel are clearly responsive to both our earlier discovery and the facts at issue in this case. They should have been produced earlier, in time for us to address their content with the defendants and other Fred Meyer management personnel who have been deposed.

While I'm sure their earlier omission was unintentional, I don't think their late production is justified by the argument that we didn't ask specifically for them earlier. We have sought exactly this type of information since I began discovery in this matter. These documents raise a number of questions which I'm certain will require the reopening of discovery, at least for the limited purposes of inquiring into their content, the events which form the basis for these complaints, the author and approximate creation dates of the hand-written notes and any action taken in regards to these. We'll of course also need to authenticate them in some fashion.

I know you're going into trial and I will be out the next three weeks. Nonetheless, we're going to need to either agree to extend discovery for a reasonable amount of time to address these late-produced documents or I'll have to ask the Court for relief. Please let me know your thoughts on this. I'll be in Seattle from Monday to Wednesday, July 17-19 at the ATLA Convention. If you'll have your legal secretary give my office a call, they can set up a time for us to talk.

Sincerely,



Mark Choate  
CHOATE LAW FIRM, LLC

cc: Client

Exhibit W  
page 2 of 2